

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1378

Citations Affected: IC 32-30-5-7; IC 36-1-6-2; IC 36-7.

Synopsis: Abandoned buildings. Conference committee report for EHB 1378. Grants community organizations standing to commence civil actions to promote compliance with ordinances when permitted by the enforcing agency. Provides that in any civil action filed by a community organization regarding an unsafe premises, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party. Allows community organizations to acquire dwellings through urban homesteading for rehabilitation and sale while allowing priority to individuals that hope to acquire the same dwellings. Provides that an order issued by an enforcement authority under the unsafe building law concerning repair and rehabilitation of an unsafe building to bring it into compliance with certain required standards for building condition or maintenance becomes final ten days after notice is given unless a hearing is requested in writing by a person holding: (1) a fee interest; (2) life estate interest; or (3) an equitable interest of a contract purchaser in the unsafe premises. Provides that orders must allow property owners at least 10, but not more than 60 days to accomplish actions to comply with ordinances. Allows municipalities to recover costs of bringing property into compliance with ordinances. Allows a receiver in possession of property to sell the property. Provides for repair alternatives and the creation of liens for unsafe buildings in a receivership. Provides that a municipal corporation or an enforcement authority may establish a registry of properties known to be: 1) in a condition that violates local ordinances; and 2) eligible for enforcement procedures. Provides that the owners of properties listed in a registry of properties must provide an address for the service of process and the name and address of the insurance carrier providing coverage on the property. Provides that new enforcement activities made possible under this act that affect a property recorded in a registry of properties may not be initiated by municipal corporations or enforcement authorities until October 1, 2003. Makes certain other changes. **(This conference committee report provides that in any civil action filed by a community organization regarding an unsafe premises, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party.)**

Effective: Upon passage; July 1, 2003.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1378 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 32-30-5-7, AS ADDED BY P.L.2-2002, SECTION
- 3 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 4 2003]: Sec. 7. The receiver may, under control of the court or the
- 5 judge:
- 6 (1) bring and defend actions;
- 7 (2) take and keep possession of the property;
- 8 (3) receive rents; ~~and~~
- 9 (4) collect debts; ~~and~~
- 10 **(5) sell property;**
- 11 in the receiver's own name, and generally do other acts respecting the
- 12 property as the court or judge may authorize.
- 13 SECTION 2. IC 36-1-6-2, AS AMENDED BY P.L.50-2002,
- 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 15 JULY 1, 2003]: Sec. 2. (a) If a condition violating an ordinance of a
- 16 municipal corporation exists on real property, officers of the municipal
- 17 corporation may enter onto that property and take appropriate action to
- 18 bring the property into compliance with the ordinance. However,
- 19 before action to bring compliance may be taken, all persons holding a
- 20 substantial interest in the property must be given a reasonable
- 21 opportunity **of at least ten (10) days but not more than sixty (60)**
- 22 **days** to bring the property into compliance. If action to bring

compliance is taken by the municipal corporation, the expense involved may be made a lien against the property.

(b) ~~If the violation described in subsection (a) is a violation that is located outdoors and does not involve a building or structure;~~ The municipal corporation may ~~also~~ issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) If the owner of the real property fails to pay a bill issued under subsection (b), the municipal corporation may, **after thirty (30) days**, certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

SECTION 3. IC 36-7-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter:

"Community organization" means a citizen's group, neighborhood association, neighborhood development corporation, or similar organization that:

(1) has specific geographic boundaries defined in its bylaws or articles of incorporation and contains at least forty (40) households within those boundaries;

(2) is a nonprofit corporation that is representative of at least twenty-five (25) households or twenty percent (20%) of the households in the community, whichever is less;

(3) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;

(4) has been incorporated for at least two (2) years; and

(5) is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

"Department" refers to the executive department authorized by ordinance to administer this chapter. In a consolidated city, this department is the department of metropolitan development, subject to IC 36-3-4-23.

"Enforcement authority" refers to the chief administrative officer of the department, except in a consolidated city. In a consolidated city, the division of development services is the enforcement authority, subject to IC 36-3-4-23.

"Hearing authority" refers to a person or persons designated as such by the executive of a city or county, or by the legislative body of a town. However, in a consolidated city, the director of the department or a person designated by him is the hearing authority. An employee of the enforcement authority may not be designated as the hearing authority.

"Substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a present possessory interest, or an equitable interest of a contract purchaser. In a consolidated city, the interest reflected by a deed, lease,

license, mortgage, land sale contract, or lien is not a substantial property interest unless the deed, lease, license, mortgage, land sale contract, lien, or evidence of it is:

- (1) recorded in the office of the county recorder; or
- (2) the subject of a written information that is received by the division of development services and includes the name and address of the holder of the interest described.

SECTION 4. IC 36-7-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

- (1) vacating of an unsafe building;
- (2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;
- (3) extermination of vermin in and about the unsafe premises;
- (4) removal of trash, debris, or fire hazardous material in and about the unsafe premises;
- (5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;
- (6) removal of part of an unsafe building;
- (7) removal of an unsafe building; and
- (8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:
 - (A) sealing against intrusion by unauthorized persons and the effects of weather;
 - (B) exterior improvements to make the building compatible in appearance with other buildings in the area; and
 - (C) continuing maintenance and upkeep of the building and premises;

in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:

- (1) the name of the person to whom the order is issued;
- (2) the legal description or address of the unsafe premises that are the subject of the order;
- (3) the action that the order requires;
- (4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;
- (5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;

(6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), ~~or~~ (a)(4), **or (a)(5)** becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;

(7) a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

(8) a statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority; and

(9) the name, address, and telephone number of the enforcement authority.

(c) The order must allow a sufficient time, of at least ten (10) days, **but not more than sixty (60) days**, from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

(1) A complaint requesting judicial review is filed under section 9 of this chapter.

(2) A contract for action required by the order is let at public bid under section 11 of this chapter.

(3) A civil action is filed under section 17 of this chapter.

SECTION 5. IC 36-7-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A hearing must be held relative to each order of the enforcement authority, except for an order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter. An order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.

(b) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five (5) days after notice is given, to continue the hearing to a business day not later than fourteen (14) days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the manner prescribed by section 25 of this chapter. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement

1 authority has received information in writing that enables it to make
 2 service under section 25 of this chapter by a method other than
 3 publication.

4 (c) The person to whom the order was issued, any person having a
 5 substantial property interest in the unsafe premises that are the subject
 6 of the order, or any other person with an interest in the proceedings
 7 may appear in person or by counsel at the hearing. Each person
 8 appearing at the hearing is entitled to present evidence, cross-examine
 9 opposing witnesses, and present arguments.

10 (d) At the conclusion of any hearing at which a continuance is not
 11 granted, the hearing authority may make findings and take action to:

12 (1) affirm the order;

13 (2) rescind the order; or

14 (3) modify the order, but unless the person to whom the order was
 15 issued, or counsel for that person, is present at the hearing, the
 16 hearing authority may modify the order in only a manner that
 17 makes its terms less stringent.

18 In addition to affirming the order, in those cases in which the hearing
 19 authority finds that there has been a willful failure to comply with the
 20 order, the hearing authority may impose a civil penalty in an amount
 21 not to exceed ~~one five~~ thousand dollars ~~(\$1,000)~~. **(\$5,000)**. The
 22 effective date of the civil penalty may be postponed for a reasonable
 23 period, after which the hearing authority may order the civil penalty
 24 reduced or stricken if the hearing authority is satisfied that all work
 25 necessary to fully comply with the order has been done. For purposes
 26 of an appeal under section 8 of this chapter or enforcement of an order
 27 under section 17 of this chapter, action of the hearing authority is
 28 considered final upon the affirmation of the order, even though the
 29 hearing authority may retain jurisdiction for the ultimate determination
 30 of a fine.

31 (e) If, at a hearing, a person to whom an order has been issued
 32 requests an additional period to accomplish action required by the
 33 order, and shows good cause for this request to be granted, the hearing
 34 authority may grant the request. However, as a condition for allowing
 35 the additional period, the hearing authority may require that the person
 36 post a performance bond to be forfeited if the action required by the
 37 order is not completed within the additional period.

38 (f) The board or commission having control over the department
 39 shall, at a public hearing, after having given notice of the time and
 40 place of the hearing by publication in accordance with IC 5-3-1, adopt
 41 a schedule setting forth the maximum amount of performance bonds
 42 applicable to various types of ordered action. The hearing authority
 43 shall use this schedule to fix the amount of the performance bond
 44 required under subsection (e).

45 (g) The record of the findings made and action taken by the hearing
 46 authority at the hearing shall be available to the public upon request.
 47 However, neither the enforcement authority nor the hearing authority
 48 is required to give any person notice of the findings and action.

49 (h) A civil penalty under subsection (d) may be collected in the same
 50 manner as costs under section 13 of this chapter. The amount of the
 51 civil penalty that is collected shall be deposited in the unsafe building

1 fund.

2 SECTION 6. IC 36-7-9-10 IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The enforcement authority
4 may cause the action required by an order issued under section 5(a)(2),
5 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter to be performed by a
6 contractor if:

7 (1) the order has been served, in the manner prescribed by section
8 25 of this chapter, on each person having a fee interest, life estate
9 interest, or equitable interest of a contract purchaser in the unsafe
10 premises that are the subject of the order;

11 (2) the order has not been complied with;

12 (3) a hearing was not requested under section 5(b)(6) of this
13 chapter, or, if a hearing was requested, the order was affirmed at
14 the hearing; and

15 (4) the order is not being reviewed under section 8 of this chapter.

16 (b) The enforcement authority may cause the action required by an
17 order, other than an order under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or**
18 **5(a)(5)** of this chapter, to be performed if:

19 (1) service of an order, in the manner prescribed by section 25 of
20 this chapter, has been made on each person having a substantial
21 property interest in the unsafe premises that are the subject of the
22 order;

23 (2) the order has been affirmed or modified at the hearing in such
24 a manner that all persons having a substantial property interest in
25 the unsafe premises that are the subject of the order are currently
26 subject to an order requiring the accomplishment of substantially
27 identical action;

28 (3) the order, as affirmed or modified at the hearing, has not been
29 complied with; and

30 (4) the order is not being reviewed under section 8 of this chapter.

31 (c) If action is being taken under this section on the basis of an order
32 that was served by publication, it is sufficient to serve the statement **by**
33 **publication and indicate** that the enforcement authority intends to
34 perform the work, ~~by publication~~; unless the authority has received
35 information in writing that enables it to make service under section 25
36 of this chapter by a method other than publication.

37 SECTION 7. IC 36-7-9-17 IS AMENDED TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) The department, acting
39 through its enforcement authority, ~~or~~ a person designated by the
40 enforcement authority, **or a community organization** may bring a
41 civil action regarding unsafe premises in the circuit, superior, or
42 municipal court of the county. The department is not liable for the costs
43 of such an action. The court may grant one (1) or more of the kinds of
44 relief authorized by sections 18 through 22 of this chapter.

45 (b) **A civil action may not be initiated under this section before**
46 **the final date of an order or an extension of an order under section**
47 **5(c) of this chapter requiring:**

48 (1) the completion; or

49 (2) a substantial beginning toward accomplishing the
50 completion;

51 of the required remedial action.

1 (c) A community organization may not initiate a civil action
2 under this section if:

3 (1) the enforcement authority or a person designated by the
4 enforcement authority has filed a civil action under this section
5 regarding the unsafe premises; or

6 (2) the enforcement authority has issued a final order that the
7 required remedial action has been satisfactorily completed.

8 (d) A community organization may not initiate a civil action
9 under this section if the real property that is the subject of the civil
10 action is located outside the specific geographic boundaries of the
11 area defined in the bylaws or articles of incorporation of the
12 community organization.

13 (e) At least sixty (60) days before commencing a civil action
14 under this section, a community organization must issue a notice
15 by certified mail, return receipt requested, that:

16 (1) specifies:

17 (A) the nature of the alleged nuisance;

18 (B) the date the nuisance was first discovered;

19 (C) the location on the property where the nuisance is
20 allegedly occurring;

21 (D) the intent of the community organization to bring a civil
22 action under this section; and

23 (E) the relief sought in the action; and

24 (2) is provided to:

25 (A) the owner of record of the premises;

26 (B) tenants located on the premises;

27 (C) the enforcement authority; and

28 (D) any person that possesses an interest of record.

29 (f) In any action filed by a community organization under this
30 section, a court may award reasonable attorney's fees, court costs,
31 and other reasonable expenses of litigation to the prevailing party.

32 SECTION 8. IC 36-7-9-20 IS AMENDED TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) A court acting under section
34 17 of this chapter may appoint a receiver for the unsafe premises,
35 subject to the following conditions:

36 (1) The purpose of the receivership must be to take possession of
37 the unsafe premises for a period sufficient to accomplish and pay
38 for repairs and improvements.

39 (2) The receiver may be a ~~not-for-profit~~ **nonprofit** corporation the
40 primary purpose of which is the improvement of housing
41 conditions in the county where the unsafe premises are located, or
42 may be any other capable person residing in the county.

43 (3) Notwithstanding any prior assignments of the rents and other
44 income of the unsafe premises, the receiver must collect and use
45 that income to repair or remove the defects as required by the
46 order, and may, upon approval by the court, make repairs and
47 improvements in addition to those specified in the order or
48 required by applicable statutes, ordinances, codes, or regulations.

49 (4) The receiver may make any contracts and do all things
50 necessary to accomplish the repair and improvement of the unsafe
51 premises.

(5) A receiver that expends money, performs labor, or furnishes materials or machinery, including the leasing of equipment or tools, for the repair of an unsafe premises may have a lien that is equal to the total expended. When a lien exists, the receiver may sell the property:

(A) to the highest bidder at auction under the same notice and sale provisions applicable to a foreclosure sale of mechanic's liens or mortgages; or

(B) for fair market value if all persons having a substantial property interest in the unsafe premises agree to the amount and procedure.

The transferee in either a public or private sale must first demonstrate the necessary ability and experience to rehabilitate the premises within a reasonable time to the satisfaction of the receiver.

(6) The court may, after a hearing, authorize the receiver to obtain money needed to accomplish the repairs and improvement by the issuance and sale of notes or receiver's certificates to the receiver or any other person or party bearing interest fixed by the court. The notes or certificates are a first lien on the unsafe premises and the rents and income of the unsafe building. This lien is superior to all other assignments of rents, liens, mortgages, or other encumbrances on the property, except taxes, if, within sixty (60) days following the sale or transfer for value of the notes by the receiver, the holder of the notes files a notice containing the following information in the county recorder's office:

(A) The legal description of the tract of real property on which the unsafe building is located.

(B) The face amount and interest rate of the note or certificate.

(C) The date when the note or certificate was sold or transferred by the receiver.

(D) The date of maturity.

~~(6)~~ (7) Upon payment to the holder of a receiver's note or certificate of the face amount and interest, and upon filing in the recorder's office of a sworn statement of payment, the lien of that note or certificate is released. Upon a default in payment on a receiver's note or certificate, the lien may be enforced by proceedings to foreclose in the manner prescribed for mechanic's liens or mortgages. However, the foreclosure proceedings must be commenced within two (2) years after the date of default.

~~(7)~~ (8) The receiver is entitled to the same fees, commissions, and necessary expenses as receivers in actions to foreclose mortgages. The fees, commissions, and expenses shall be paid out of the rents and incomes of the property in receivership.

(b) The issuance of an order concerning unsafe premises is not a prerequisite to the appointment of a receiver nor does such an order prevent the appointment of a receiver.

(c) If the enforcement authority or the enforcement authority's designee requests the appointment of a receiver, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(d) A court, when granting powers and duties to a receiver, shall consider:

- (1) the occupancy of the unsafe premises;
- (2) the overall condition of the property;
- (3) the hazard to public health, safety, and welfare;
- (4) the number of persons having a substantial property interest in the unsafe premises; and
- (5) other factors the court considers relevant.

(e) Instead of appointing a receiver to sell or rehabilitate an unsafe premises, the court may permit an owner, a mortgagee, or a person with substantial interest in the unsafe premises to rehabilitate the premises if the owner, mortgagee, or person with substantial interest:

- (1) demonstrates ability to complete the rehabilitation within a reasonable time, but not to exceed sixty (60) days;
- (2) agrees to comply within a specified schedule for rehabilitation; and
- (3) posts a bond as security for performance of the required work in compliance with the specified schedule in subdivision (2).

SECTION 9. IC 36-7-9-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) The enforcement authority shall record in the office of the county recorder orders issued under section ~~5~~ **5(a)(6), 5(a)(7)**, or 6(a) of this chapter. **If the enforcement authority records an order issued under section 5(a)(6), 5(a)(7), or 6(a) of this chapter**, statements of rescission issued under section 6(b) of this chapter, statements that public bids are to be let under section 11 of this chapter, and records of action in which ~~an~~ **the** order is affirmed, modified, or rescinded taken by the hearing authority under section 7 of this chapter **shall be recorded**. The recorder shall charge the fee required under IC 36-2-7-10 for recording these items.

(b) A person who takes an interest in unsafe premises that are the subject of ~~an~~ **a recorded** order takes that interest, whether or not a hearing has been held, subject to the terms of the order **and other documents recorded under subsection (a)** and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders and affirmation of orders are considered satisfied. If a hearing has been held, the interest is taken subject to the terms of the order as modified at the hearing, **in other documents recorded under subsection(a)**, and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders, and modification of orders at hearing are considered satisfied.

(c) A person who takes an interest in unsafe premises that are the subject of a **recorded** statement that public bids are to be let takes the interest subject to the terms of the statement and in such a manner that the notice of the statement required by section 11 of this chapter is considered given to the person.

SECTION 10. IC 36-7-15.1-15.1, AS AMENDED BY P.L.86-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 15.1. (a) As used in this section, "qualifying corporation" refers to a nonprofit corporation or neighborhood development corporation that meets the requirements of subsection (b)(1) and the criteria established by the county fiscal body under subsection (i).

(b) The commission may sell or grant at no cost title to real property to a nonprofit corporation or neighborhood development corporation for the purpose of providing low or moderate income housing or other development that will benefit or serve low or moderate income families if the following requirements are met:

(1) The nonprofit corporation or neighborhood development corporation has, as a major corporate purpose and function, the provision of housing for low and moderate income families within the geographic area in which the parcel of property is located.

(2) The qualifying corporation agrees to cause development that will serve or benefit low or moderate income families on the parcel of property within a specified period, which may not exceed five (5) years from the date of the sale or grant.

(3) The qualifying corporation, if the qualifying corporation is a neighborhood development corporation, agrees that the qualifying corporation and each applicant, recipient, contractor, or subcontractor undertaking work in connection with the real property will:

(A) use lower income project area residents as trainees and as employees; and

(B) contract for work with business concerns located in the project area or owned in substantial part by persons residing in the project area;

to the greatest extent feasible, as determined under the standards specified in 24 CFR 135.

(4) The county fiscal body has determined that the corporation meets the criteria established under subsection (i).

(5) The qualifying corporation agrees to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the qualifying corporation.

(c) To carry out the purposes of this section, the commission may secure from the county under IC 6-1.1-25-9(e) parcels of property acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(d) Before offering any parcel of property for sale or grant, the fair market value of the parcel of property must be determined. ~~by an appraiser, who may be an~~ **The fair market value may be determined by an appraisal made by a qualified employee of the department.** However, **if the qualified employee of the department determines that:**

(1) the property:

(A) is less than five (5) acres in size; and

(B) has a fair market value that is less than ten thousand dollars (\$10,000); or

(2) if the commission has obtained the parcel in the manner described in subsection (c);

an appraisal is not required. An appraisal under this subsection is solely for the information of the commission and is not available for public inspection.

(e) The commission must decide whether the commission will sell or grant the parcel of real property at a public meeting. In making this decision, the commission shall give substantial weight to the extent to which and the terms under which the qualifying corporation will cause development to serve or benefit families of low or moderate income. If more than one (1) qualifying corporation is interested in acquiring a parcel of real property, the commission shall conduct a hearing at which a representative of each corporation may state the reasons why the commission should sell or grant the parcel to that corporation.

(f) Before conducting a hearing under subsection (e), the commission shall publish a notice in accordance with IC 5-3-1 indicating that at a designated time the commission will consider selling or granting the parcel of real property under this section. The notice must state the general location of the property, including the street address if any, or a common description of the property other than the legal description.

(g) If the county agrees to transfer a parcel of real property to the commission to be sold or granted under this section, the commission may conduct a hearing to sell or grant the parcel to a qualifying corporation even though the parcel has not yet been transferred to the commission. After the hearing, the commission may adopt a resolution directing the department to take appropriate steps necessary to acquire the parcel from the county and to transfer the parcel to the qualifying corporation.

(h) A conveyance of property to a qualifying corporation under this section shall be made in accordance with section 15(i) of this chapter.

(i) The county fiscal body shall establish criteria for determining the eligibility of nonprofit corporations and neighborhood development corporations for sales or grants of real property under this section. A nonprofit corporation or neighborhood development corporation may apply to the county fiscal body for a determination concerning the corporation's compliance with the criteria established under this subsection.

SECTION 11. IC 36-7-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The fiscal body of a unit may by ordinance designate an agency or quasi-public corporation, or establish a new agency, to administer an urban homesteading program under which family dwellings for one (1) through four (4) families may be conveyed to individuals or families, who must occupy and rehabilitate the dwellings, **and community organizations that must rehabilitate the dwellings and offer them for sale.**

SECTION 12. IC 36-7-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person **or community organization** may apply for the program by completing a bid application.

(b) **The following** ~~An applicant is~~ **applicants are** qualified and shall be approved to receive real property offered under this chapter: ~~if he:~~

(1) **A person who:**

(A) is at least eighteen (18) years of age;

(2) (B) possesses the financial resources to support a loan, the necessary skills to rehabilitate the property, or a combination of both; and

(3) (C) has, including immediate family, not previously participated in the program.

(2) A community organization as described in IC 36-7-9-2.

(c) Approved applicants are entitled to receive a list of all properties owned by the unit that are available under this chapter.

(d) Approved applicants may apply for each dwelling in which they are interested. A drawing shall be held to determine those ~~persons~~ **applicants** receiving the dwellings. **Persons applying under this chapter shall receive priority over community organizations if both indicate an interest in the same dwelling.** Each approved ~~applicant~~ **person** and his ~~or her~~ immediate family may receive only one (1) dwelling in the drawing. **Each approved community organization may receive as many dwellings as the agency considers proper.**

SECTION 13. IC 36-7-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The conveyance of a dwelling to an applicant under this chapter shall be made in return for a fee of one dollar (\$1) or more and the execution by the applicant of an agreement with the following minimum conditions:

(1) The applicant must:

(A) if a person, reside in the dwelling as ~~his~~ **the person's** principal place of residence for a period of not less than three (3) years; **or**

(B) if a community organization, agree to list the dwelling for sale within twelve (12) months after possession.

(2) The applicant must bring the residence up to a minimum code standard, including building, plumbing, electrical, and fire code standards, within twelve (12) months after possession, or before possession if required under subdivision (4).

(3) The applicant must carry fire and liability insurance on the dwelling at all times.

(4) The applicant must comply with any additional terms, conditions, and requirements that the agency may impose to assure that the purposes of this chapter are carried out. This may include the requirement that the dwelling be rehabilitated to minimum building code standards before possession.

SECTION 14. IC 36-7-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The agency shall convey the real property acquired for the purposes of this chapter to those persons **or community organizations** qualified under section 6 of this chapter by using the methods prescribed by subsection (b), ~~or subsection (c), or (d).~~

(b) The real property may be conveyed by a conditional sales contract, with title to remain in the agency for a period of at least one (1) year.

(c) The title to real property may be conveyed to ~~the purchaser a~~ **person purchasing the property** as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language "The property is conveyed on the conditions that the

- 1 purchaser:
- 2 (1) will reside in the dwelling as his principal place of residence
- 3 for a period of not less than three (3) years;
- 4 (2) will bring the residence up to minimum code standards in
- 5 twelve (12) months;
- 6 (3) will carry adequate fire and liability insurance on the dwelling
- 7 at all times; and
- 8 (4) will comply with such additional terms, conditions, and
- 9 requirements as the agency requires before _____ (date of
- 10 the deed) under IC 36-7-17".
- 11 **(d) The title to real property may be conveyed to a community**
- 12 **organization purchasing the property as a determinable fee, with**
- 13 **the language of the granting clause in the deed of conveyance to**
- 14 **include the language: "The property is conveyed on the conditions**
- 15 **that the purchaser:**
- 16 **(1) will list the property for sale within twelve (12) months of**
- 17 **taking possession;**
- 18 **(2) will bring the residence up to minimum code standards**
- 19 **within twelve (12) months;**
- 20 **(3) will carry adequate fire and liability insurance on the**
- 21 **dwelling at all times; and**
- 22 **(4) will comply with any additional terms, conditions, and**
- 23 **requirements as the agency requires before _____ (date**
- 24 **of the deed) under IC 36-7-17."**
- 25 SECTION 15. IC 36-7-17-9 IS AMENDED TO READ AS
- 26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) **When, after the**
- 27 **purchaser purchase, a person** has resided in the dwelling for the
- 28 required three (3) year period, brought the property into compliance
- 29 with the required code standards, and otherwise complied with the
- 30 terms of ~~his~~ **the person's** agreement, the agency shall convey to ~~him~~
- 31 **the person** a fee simple title to the property.
- 32 **(b) When, after purchase, a community organization has brought**
- 33 **the property into compliance with the required code standards,**
- 34 **documented its intent to list the property for sale, and otherwise**
- 35 **complied with the terms of its agreement, the agency shall convey**
- 36 **to it a fee simple title to the property.**
- 37 SECTION 16. [EFFECTIVE UPON PASSAGE] (a)
- 38 Notwithstanding IC 36-1-6 and IC 36-7-9, a municipal corporation
- 39 under IC 36-1-6-2, as amended by this act, and an enforcement
- 40 authority under IC 36-7-9-2, as amended by this act, may establish
- 41 and maintain a registry of properties within its jurisdiction known
- 42 to be:
- 43 (1) in a condition that violates local ordinances; and
- 44 (2) eligible for enforcement procedures under IC 36-1-6-2 and
- 45 IC 36-7-9-5, both as amended by this act.
- 46 (b) The information in the registry shall be made available to the
- 47 public under IC 5-14-3 for inspection and copying during ordinary
- 48 business hours.
- 49 (c) The owners of property recorded in the registry shall provide:
- 50 (1) either:
- 51 (A) their mailing address; or

1 **(B) the name and mailing address of their agent;**
2 **for the purpose of service of process; and**
3 **(2) the name and address of the insurance carrier providing**
4 **insurance coverage on the property.**

5 **(d) The registered owner of the property must notify the**
6 **enforcement authority of a change in ownership.**

7 **(e) Beginning July 1, 2003, new enforcement activities made**
8 **possible under IC 36-1-6 or IC 36-7-9 by the amendments in this**
9 **act may not be initiated by a municipal corporation or an**
10 **enforcement authority that affect a property recorded in a registry**
11 **until October 1, 2003.**

12 **(f) This SECTION expires on October 1, 2003.**

13 **SECTION 17. [EFFECTIVE UPON PASSAGE] This act does not**
14 **affect:**

15 **(1) rights or liabilities accrued;**

16 **(2) penalties incurred;**

17 **(3) crimes committed; or**

18 **(4) proceedings begun;**

19 **before the effective date of this act. Those rights, liabilities,**
20 **penalties, crimes, and proceedings continue and shall be imposed**
21 **and enforced under prior law as if this act had not been enacted.**

22 **SECTION 18. An emergency is declared for this act.**

23 **(Reference is to EHB 1378 as printed April 4, 2003.)**

Conference Committee Report
on
Engrossed House Bill 1378

Signed by:

Representative Day
Chairperson

Senator Server

Representative Alderman

Senator Rogers

House Conferees

Senate Conferees